

ALASKA STATE LEGISLATURE
SENATE HEALTH, EDUCATION AND SOCIAL SERVICES STANDING COMMITTEE

February 9, 2004

1:39 p.m.

TAPE(S) 04-5

MEMBERS PRESENT

Senator Fred Dyson, Chair
Senator Lyda Green, Vice Chair
Senator Gary Wilken
Senator Gretchen Guess (via teleconference)

MEMBERS ABSENT

Senator Bettye Davis

COMMITTEE CALENDAR

SENATE BILL NO. 277

"An Act relating to the Alaska Commission on Postsecondary Education; relating to the Alaska Student Loan Corporation; relating to bonds of the corporation; relating to loan and grant programs of the commission; relating to an exemption from the State Procurement Code regarding certain contracts of the commission or corporation; making conforming changes; and providing for an effective date."

MOVED CSSB 277(HES) OUT OF COMMITTEE

SENATE BILL NO. 285

"An Act relating to medical assistance coverage for targeted case management services and for rehabilitative services furnished or paid for by a school district on behalf of certain children; and providing for an effective date."

MOVED SB 285 OUT OF COMMITTEE

SENATE BILL NO. 288

"An Act relating to certain determinations concerning placement of a child in emergency custody and temporary placement hearings in child-in-need-of-aid proceedings; and providing for an effective date."

MOVED CSSB 288(HES) OUT OF COMMITTEE

SENATE BILL NO. 289

"An Act extending the termination date of the special education service agency; and providing for an effective date."

MOVED SB 289 OUT OF COMMITTEE

PREVIOUS ACTION

BILL: SB 277

SHORT TITLE: STUDENT LOAN PROGRAMS

SENATOR(s): RULES BY REQUEST OF THE GOVERNOR

01/23/04	(S)	READ THE FIRST TIME - REFERRALS
01/23/04	(S)	HES, FIN
02/04/04	(S)	HES AT 1:30 PM BUTROVICH 205
02/04/04	(S)	Heard & Held
02/04/04	(S)	MINUTE(HES)
02/09/04	(S)	HES AT 1:30 PM BUTROVICH 205

BILL: SB 285

SHORT TITLE: MEDICAL ASSISTANCE COVERAGE

SENATOR(s): GREEN

01/28/04	(S)	READ THE FIRST TIME - REFERRALS
01/28/04	(S)	HES, FIN
02/09/04	(S)	HES AT 1:30 PM BUTROVICH 205

BILL: SB 288

SHORT TITLE: EMERGENCY CHILD CUSTODY PLACEMENT

SENATOR(s): GREEN

02/02/04	(S)	READ THE FIRST TIME - REFERRALS
02/02/04	(S)	HES, JUD
02/09/04	(S)	HES AT 1:30 PM BUTROVICH 205

BILL: SB 289

SHORT TITLE: EXTENDING THE SPECIAL ED SERVICE AGENCY

SENATOR(s): GREEN

02/02/04	(S)	READ THE FIRST TIME - REFERRALS
02/02/04	(S)	HES, FIN
02/09/04	(S)	HES AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

MS. DIANE BARRANS

Executive Director
Alaska Commission on Postsecondary Education (ACPE)
Juneau, AK

POSITION STATEMENT: Presented CS to SB 277.

MS. JACQUELINE TUPOU
Staff to Senator Lyda Green
Alaska State Capitol
Juneau, AK 9801-1182

POSITION STATEMENT: Presented SB 285, SB 288, and SB 289.

MR. JOEL GILBERTSON, Commissioner
Department of Health and Social Services (DHSS)
PO Box 110601
Juneau, AK 99801-0601

POSITION STATEMENT: Testified on what SB 285 accomplishes.

MR. JON SHERWOOD
Department of Health and Social Services (DHSS)
PO Box 110601
Juneau, AK 99801-0601

POSITION STATEMENT: Answered questions pertaining to SB 285.

MS. MARCIE KENNAI, Deputy Commissioner
Office of Children's Services
Department of Health and Social Services (DHSS)
PO Box 110630
Juneau, AK 99801-0630

POSITION STATEMENT: Testified on the importance of SB 288.

MR. CHRISTOPHER L. ROBINSON
Executive Director
Special Education Service Agency (SESA)
2217 E. Tudor Road
Anchorage, AK 99507

POSITION STATEMENT: Supported SB 289.

MS. JANET JOHNSON
Cordova, AK

POSITION STATEMENT: Supported SB 289.

ACTION NARRATIVE

TAPE 04-5, SIDE A

CHAIR FRED DYSON called the Senate Health, Education and Social Services Standing Committee meeting to order at 1:39 p.m.

Senators Wilken, Green, and Chair Dyson were present. Senator Davis was excused due to medical problems in her family and Senator Guess joined the meeting via teleconference, as it was in progress. He said the committee would take up SB 277, SB 285, SB 288, and SB 289 and that his intention was to hear public testimony and to move the bills out today. He asked if anybody had time constraints that should be considered in today's meeting. Hearing no response, he announced the first order of business was SB 277.

SB 277-STUDENT LOAN PROGRAMS

MS. DIANE BARRANS, Executive Director, Alaska Commission on Postsecondary Education (ACPE, "Commission") spoke to the concerns that had been brought up by committee members at the previous meeting [meeting of 2/4/04]. She addressed the first concern by referencing Section 4, page 3, regarding Alaska Student Loan Corporation's (ASLC) authority to finance projects of the state with the proceeds of bond issues. This supports the Corporation's intent to, over a three-year period, return a substantial amount of the original capital that the state contributed to start up the Corporation. To remedy concern that language was overly broad and could lead to putting the Corporation in a financially untenable position in the future, Ms. Barrans recommended adding Subsection (g), [AS 14.42.220] to cap the aggregate amount; the total the Corporation could issue, with respect to (a)(3) would be \$280 million.

MS. BARRANS said the second concern expressed by committee members pertained to the Commission's limited authority to prioritize four occupation categories and how, in the event of an unforeseen emergency, the Commission would not have the authority to prioritize grant money to individuals pursuing careers outside of those categories. The remedy to this concern was to remove the limiting section, the language in Section 21, lines 28 - 29 [health, human services, education, or public safety]. She noted that conforming changes would need to be made to Section 24, reflecting that the language defined in paragraph (3) had been removed. Paragraph (4) would read, "occupation or profession" because the term, "occupational or professional field" would be removed. She said these constitute the committee substitute (CS) [which was currently en route to the HESS committee].

MR. JASON HOOLEY, staff to Senator Dyson, informed CHAIR DYSON and members that CS would arrive during today's hearing.

CHAIR DYSON said he would suspend the hearing on SB 277 until the arrival of the CS, later in the meeting.

1:45 p.m.

SB 285-MEDICAL ASSISTANCE COVERAGE

The committee took up SB 285.

MS. JACQUELINE TUPOU, staff to Senator Lyda Green, presented SB 285 on behalf of the sponsor and testified that this bill allows the state to extend targeted case management to various user groups that aren't currently included in its authority. By doing so, it allows for refinancing of general fund expenditures by reimbursing the schools for the targeted case management services. Secondly, it changes the state's rehabilitative services to match the federal definition of rehabilitative services. Doing this ensures reimbursement for the school-based Medicaid rehabilitative services. It's estimated that this legislation will potentially save approximately \$270 [thousand] in FY 05.

SENATOR WILKEN asked, "How does this roll into what we did a couple years ago about -- we asked someone to start billing the feds for something. Where are we on that project?"

SENATOR LYDA GREEN responded that this bill was directly related to that legislation and she deferred to Commissioner Gilbertson.

MR. JOEL GILBERTSON, Commissioner, Department of Health and Social Services (DHSS), said that SB 285 accomplishes two purposes, and testified as follows:

One purpose does deal with school-based Medicaid ... to improve and increase the flexibility for school districts ... being able to bill for Medicaid services and to assist them in the documentation of those services. Also, to address a deficiency found in the current authority of the department to move forward [on what] was found by the Department of Law.

The first of these two deals with the ability of the schools to adequately document for services so that they can bill. For this reason, the legislation itself now directly cites the code of federal regulations in the definition of rehabilitative services. The unambiguous linkage of the state and

federal definition will permit services recommended by the physician or provider - normally included in the student's IEP [Individual Education Plan] - those services normally recommended, not prescribed, can be billed under Medicaid. We have an approved state plan for therapies, normally OT, PT, speech, some assisted devices for hearing, some transportation services, nursing services, and it is the department's intent, after passage of this legislation, to submit another state plan amendment of the Medicaid program, to broaden the scope, and to include psychological evaluation and counseling services. However, absent this change, and this inclusiveness of the federal language, under the CFR, we are now working under a paradigm in which the doctor has to prescribe services as opposed to services recommended in the IEP, to allow those services to be billed under Medicaid.

Also, the amendment is needed because when the department began to implement school-based services legislation, SB 345, which was passed in 2002, the Department of Law noted that while the bill had added school-based rehabilitative services to the list of covered Medicaid services, in AS 47.07.030, the statutory definition of rehabilitative services in AS 47.07.900 was left unchanged. So the scope was changed but not the definition. That restricts rehabilitative services only to those adult individuals who are substance abusers or who are chronically medically ill. As a result, the department cannot issue regulations allowing the school districts to bill for rehabilitative services. SB 285 fixes this problem by including a separate definition for rehabilitative services for school districts in AS 47.07.063, which supersedes the previous definition that was in AS 47.07.900.

The second point of this legislation addresses targeted case management [TCM] services. Currently, those services are optional services under federal Medicaid law. This change, being put forward in this legislation, coincides with the department's general effort to replace the general fund in the provision of health care services across the state. Current law restricts the provision of targeted case management services to substance abusers, chronically mentally ill adults, and SED (severely emotionally disturbed)

children. TCM for these groups is funded at the Medicaid program match rate of 58 percent federal, 42 percent state. This is a change from the current funding of these services, which is at 100 percent general fund dollars. The amendment will permit DHSS to identify additional groups that are currently receiving case management services that are funded by the general funds, and replace that with the Medicaid match rate of 58 percent federal funds.

Some examples of services that can be provided through TCM services include: Children under the care/custody of the Office of Children's Services or Department of Juvenile Justice [DJJ] who are not currently in detention beds; children in the Infant Learning Program, some public health nursing services; children within the educational system who have an IEP; and targeted tribal groups. The fiscal note notes only minimal general fund savings for FY 05. It is a zero fiscal note because the governor's budget already includes a \$270 thousand savings assuming the implementation of this legislation and the successful implementation of TCM services in FY 05. Much work has to be done to begin the services. Obtaining federal approval of the state plan amendment to draw down the necessary funds has recently become a more prolonged process than previously. State plan amendments are becoming more difficult to receive approval on, but we do ultimately receive approval. This is an approvable state plan amendment, so we do anticipate implementation at some point during FY 05, and will realize these savings. In addition, billing, accounting, and case management systems will need modification in order to submit and support this new claiming activity. These are some of the reasons for there being minimal savings for FY 05, but we believe that future savings will be much larger for the state.

CHAIR DYSON acknowledged that Senator Guess was participating in the meeting via teleconference.

SENATOR GREEN said she wanted to respond to inquiries she has received from school districts on this issue and asked when this process would be in place.

COMMISSIONER GILBERTSON responded there is a two-pronged effort to implement this legislation, recalling a previous discussion

with Senator Green to get this fast-tracked. He said the regulations were developed and a state plan amendment was submitted which was the federal side of this to get approval to provide these services. The state plan amendment was approved for some services, largely therapies; the deficiency in the regulations was noted by the Department of Law. He said as soon as this legislation is passed and the legislative authority exists to engage in the services, regulations would be put out again, there would be a comment period, and finalization of the regulations. An additional state plan amendment will be submitted to expand the scope of services to include counseling and psychological evaluation. Those services would be subject to the time process of getting the state plan amendment approved. Historically this hasn't taken long, but as of late it has taken quite a bit of time to get approval by the federal government, he said.

SENATOR GREEN asked, "Possibly next fall?"

COMMISSIONER GILBERTSON replied this would be the goal.

SENATOR WILKEN commented on the fiscal note, saying that this had been about a \$4 million savings, which was an additional amount of money that could be spent in the schools.

SENATOR GREEN said she didn't remember the amount.

COMMISSIONER GILBERTSON responded that a sizable amount of federal money will be gathered through school-based Medicaid claiming. That money goes to the school districts, and the districts provide towards the general fund maximum, with 42 percent drawing down 58 percent of federal monies. The \$270 thousand is the savings the state anticipates in FY 05. As a result of the second part of this legislation, TCM services that allow for claiming some federal match dollars on services currently being paid for with general fund dollars, that scope of business and amount of claiming is expected to increase over the long-term. Acknowledging the start-up time, "we don't anticipate a large savings in FY 05."

SENATOR WILKEN questioned what this would mean to the 53 school districts and asked, "What will be freed up?"

MR. JON SHERWOOD, DHSS, responded that Senator Wilken "was in the ballpark" regarding the total amount of funds, saying that this would bring into the school district the mechanism the school district provides to general funds [indisc. due to

coughing] and the state process through the federal funds. Mr. Sherwood said he was not aware if estimates had been revised regarding how fast the money would come in or if the amount was still the same. Some of that depends on seeing what the federal government actually approves.

SENATOR WILKEN said the bill would go on to Finance, and asked Mr. Sherwood if there was a way to profile one district, such as Anchorage, and give a range (low/high) of what it may mean five years from now.

MR. SHERWOOD responded that the department could come up with an estimate.

CHAIR DYSON said, "We would enjoy seeing that when it gets to Finance." He asked Senator Guess if she had any questions and then asked her if she was somewhere where she could receive a fax.

SENATOR GRETCHEN GUESS replied that unfortunately she was not near a fax, however, she understood the changes that Ms. Barrans had discussed regarding the proposed CS to SB 277. [SB 277 was previously heard during today's meeting.]

CHAIR DYSON then asked if there were any additional questions on SB 285. Hearing none, he said he would entertain a motion.

SENATOR GREEN moved SB 285 from committee with individual recommendations and accompanying fiscal notes.

CHAIR DYSON asked if there were any objections. Seeing and hearing none, it was so ordered.

SB 288-EMERGENCY CHILD CUSTODY PLACEMENT

MS. JACQUELINE TUPOU, staff to Senator Lyda Green, presented SB 288 on behalf of the sponsor. Current state law provides for the court to determine, within 48 hours of [a child] being removed from the home, that there is probable cause to remove the child from the home; however, the [courts] can use varied language when making that determination. Federal law states that the judge, in his/her findings, has to use the phrase that staying in the home is "contrary to the welfare" of the child. If that doesn't occur, "we could have problems getting our federal money from the government." This bill puts the system in place so that the judge has to determine whether it is contrary to the welfare of the child to remain in the home. It

is estimated that if this legislation passes, there will be \$500,000 in federal Title IV-E receipts in FY 05.

SENATOR GREEN moved the [proposed] CS [version D, labeled 23-LS1567\D, Mischel, 2/5/04] for purposes of discussion.

CHAIR DYSON asked if there was any objection. There being none, version D was before the committee as the working document.

SENATOR GREEN explained that the first word of the sentence on the last line on page 1 [line 14], should be "At" instead of "After".

MS. MARCIE KENNAI, Deputy Commissioner, Office of Children's Services, DHSS, testified that SB 288 is very important regarding federal Title IV-E dollars coming into the state. If this language is not in the court order at the first hearing, a child is not [Title] IV-E eligible. That affects the child's eligibility for foster care and also for an adoption subsidy, which means that a child could be "general fund through his 18th birthday." Another point is that the judge has the opportunity at the very first hearing to tell parents "it is contrary to the welfare of your child" if he/she stays at home at this time. Aside from the positive revenue to be achieved from this, it also gives a very clear message to the biological parents.

CHAIR DYSON stated, for the record, that he and his wife currently do not have any foster children. However his three children have four foster children today that involve a subsidized guardianship, so it may be that his immediate family receives funds under this.

SENATOR GUESS asked if the language was more or less stringent, and wondered what the changes would be mean in court.

2:03 p.m.

DEPUTY COMMISSIONER KENNAI responded that she didn't think this would change much for the court. If the first hearing is continued and the judge has not made the finding that it is contrary to the welfare of the child to remain in the home, this automatically makes the child ineligible for [Title] IV-E reimbursement. Hopefully judges are not removing children or giving permission to remove children from the home unless it is contrary to the welfare of the child to remain at home. She said that the practice is already happening, but the federal

requirement is stringent about the language being included in the very first court order.

CHAIR DYSON then referred to a publication he had worked on several years ago advising parents of their rights and providing information about the process; he asked if those efforts were still being continued.

DEPUTY COMMISSIONER KENNAI confirmed this to be so.

CHAIR DYSON said this departmental effort was important because a parent who loses a child needs to know what is going on and what his/her rights are. He mentioned that in her former life [Deputy Commissioner Kennai] probably worked with similar statutes, and referred to page 1, lines [8 and] 9, "the child's parents or guardian, if they can be found, shall be permitted to be present." He said he reacted to the word, "permitted" because of course the parents should be present. He considered deleting "permitted" but then re-considered the situation of a child who has been assaulted or traumatized by the birth parents and asked, "What is the situation under which the parents might not be permitted to be there. What process would the judge go through to exclude the parents from being there?"

DEPUTY COMMISSIONER KENNAI responded, "I don't think there is ever a case where the parents aren't permitted." She said sometimes the parents cannot be found, are in jail, or are unable to attend the hearing.

CHAIR DYSON asked, "And the child is normally not present?"

DEPUTY COMMISSIONER KENNAI said this depends on the child's age. Children are generally present unless the child is too young, or cannot understand.

CHAIR DYSON asked, "Who makes that decision?"

DEPUTY COMMISSIONER KENNAI said, "I believe our workers make that decision."

CHAIR DYSON asked, "If the child was able to understand, and had allegedly been assaulted by the parents, and it would be traumatic for them to be confronted with their abuser, what happens?"

DEPUTY COMMISSIONER KENNAI responded that sometimes the judge sees the child in [the] chambers. Often the children can be

kept separated from the parents until it's time for the child to go in, if the judge wants to see the child. Every situation is different. Generally, if a parent has assaulted the child, he/she is in custody. "Of course we will keep the child safe," she added.

CHAIR DYSON asked if deleting the word "permitted" would do any harm to the statute.

SENATOR GREEN commented that this would imply that parents are being required to be there because it would read, "shall be present" and parents may not want to be present. She said this requirement would set a different parameter, whereas current statute implies that it's a choice. She said, "I don't even know that you'd want a parent there if they didn't want to be there."

MS. TUPOU informed members that it had been relayed anecdotally that, sadly enough, most of the parents don't want or care to be present. She pointed out that the desire was not to hinder the process by requiring parents to be present.

CHAIR DYSON commented that it was probably the flavor of the language. He said he preferred "shall be allowed to be there" rather than "permitted" and said, "I am not going to mess with it. I can assure you that most of the parents won't have looked at the statute."

DEPUTY COMMISSIONER KENNAI said that when parents don't come, that is often the reason why the judge continues the case; that's when you don't get these "contrary to welfare" findings. Most often, that has been the problem. At the first hearing the parents may not show up and the court continues the case. Unfortunately this means that if the judge has not very clearly stated that it is contrary to the welfare of the child to remain in that home, then the child is not eligible for [Title] IV-E funds.

CHAIR DYSON asked if in her former life she ever had a parent who thought that the state took custody when [the state] should not have.

DEPUTY COMMISSIONER KENNAI said yes.

CHAIR DYSON said that interestingly enough he has not had a single call like that since "you've been here," noting that he didn't know if there was any cause and effect relationship.

DEPUTY COMMISSIONER KENNAI said she would like to think that there was, but it is still [indisc.].

CHAIR DYSON asked how long she had been on the job.

DEPUTY COMMISSIONER KENNAI responded, "almost six months, not quite."

CHAIR DYSON asked how many kids the state has taken custody of during that period of time.

DEPUTY COMMISSIONER KENNAI said that since September, she doesn't know; daily and yearly counts are maintained. She asked for that data from [an unidentified person in the audience] who also didn't know the answer.

CHAIR DYSON asked if there were any further questions or comments. There being none, he said he would entertain a motion.

SENATOR GREEN moved to report the CS for SB 288 out of committee with individual recommendations and the accompanying fiscal note.

CHAIR DYSON asked if there were any objections. Seeing and hearing none, it was so ordered.

SB 277-STUDENT LOAN PROGRAMS

CHAIR DYSON announced that the proposed CS had arrived and the committee would return to SB 277.

SENATOR WILKEN moved to report the CS for SB 277 (version D) [labeled 23-GS2003\D, Cook, 2/9/04] out of committee with individual recommendations and the attached fiscal notes.

SENATOR GREEN brought up a point of order regarding adopting the CS before moving the bill out.

SENATOR WILKEN moved and asked unanimous consent that the prior motion be withdrawn.

CHAIR DYSON acknowledged that there was no objection and it was so ordered.

SENATOR WILKEN moved and asked unanimous consent that version D be adopted as the working document for SB 277.

CHAIR DYSON asked if there was any objection. Hearing none, version D was before the committee.

MS. BARRANS informed the committee that she had previously failed to mention a change and wanted members to be apprised of that change before proceeding with the vote. She referred to page 11, line 24, and said that the prior version of the bill had established a severe shortage at a vacancy rate of 10 percent or greater. She said since the scope of the potential prioritization group was being expanded, raising that rate an additional 5 percent would be prudent; she had recommended that change as well.

CHAIR DYSON noted that he had been alerted to that change.

SENATOR WILKEN moved to report CSSB 277, version D, from committee with individual recommendations and attached fiscal notes.

CHAIR DYSON asked if there was any objection. Seeing and hearing none, it was so ordered.

CHAIR DYSON added that the purview of the HESS committee was to evaluate what SB 277 does for education, while the financial implications - which are significant - would be dealt with in the next committee of referral.

2:15 p.m.

SB 289-EXTENDING THE SPECIAL ED SERVICE AGENCY

MS. JACQUELINE TUPOU, staff to Senator Lyda Green, presented SB 289 on behalf of the sponsor and provided the following testimony:

The Alaska Legislature established the Special Education Service Agency (SESA) in 1986 to help schools and Infant Learning Programs provide required services for children with disabilities where there was no local expertise, for instance if you lived in a school district with one blind child or one deaf child [indisc.]. Also, rural Alaska is where this program is utilized quite frequently.

The availability of these workers in the state, and the people who specialize in the area of disabilities has

really gone down. At the same time, the incidence of disabilities has gone up. SESA provides required and important services for people who might otherwise have to go to costly residential programs and leave their communities and families to have these services provided. This bill re-authorizes SESA for nine years, until June 30, 2013. Included in the packet are 25 or 30 letters of recommendation from various school districts, the Association of School Boards, and numerous other agencies in NEA Alaska. SESA is very well received and everyone is championing for its re-authorization.

MR. CHRISTOPHER L. ROBINSON, Executive Director, Special Education Service Agency (SESA), testified that he was available to answer questions.

SENATOR WILKEN requested of Mr. Robinson that when SB 289 gets to Finance, he'd be interested in knowing how SESA distributes the estimated \$2.1 million dollars among the 53 school districts.

CHAIR DYSON asked where the kids with [FAS/FAE] show up within specialized programs for kids with disabilities.

MR. ROBINSON replied that FAS/FAE (Fetal Alcohol Syndrome/Fetal Alcohol Effect) kids are identified under the special education category, such as learning disability, emotional disturbance, or multiple disabilities. They would typically be served through what is called, "mild disability" special education services at the school district level. SESA's specific focus is on severe, low-incidence (meaning occurring infrequently) disabilities. Historically, SESA's funding does not target [FAS/FAE] kids. In 1999, SESA won a Health and Social Services grant issued to develop intervention strategies for classroom purposes. He said the funding only staffed one professional position and by design it was inadequate to address the classroom situation. After talking with DHSS and the University of Alaska, Fairbanks, that grant was cooperatively transitioned to UAF with the intent that the funding would augment UAF's general teacher education program to better equip teachers to handle instructional differences presented by those kids. Since then, SESA has not had such targeted services.

CHAIR DYSON suggested that maybe those kids could be dealt with under [the category of] mental retardation because arguably it is a soft brain injury.

MR. ROBINSON replied that FAE is not identified as a disability category under state and federal criteria, and that identification process is the gateway for a SESA services referral. Without a doubt, there are kids identified with multiple disabilities or emotional disturbance whose etiology, in part, would be FAE, "and we know that to be the case." Those kids are being served because of their categorical identification in special education, other than FAE. Mr. Robinson said that other than the 1999 grant (which transitioned to UAF), he doesn't know of another grant that's been issued for education intervention; subsequent FAE grant funding that he's aware of has been preventive in nature.

CHAIR DYSON said his consternation was that he hoped Mr. Robinson wasn't implying that the activities were being "directed by the money as opposed to the need."

MR. ROBINSON asked, "referring to the activities of the agency?"

CHAIR DYSON replied, "Yes sir."

MR. ROBINSON said the low-incidence general revenue funding the state received has a historical attachment that doesn't include FAS/FAE kids. It would include FAS/FAE kids who have been identified for the purposes of special education in a special education category, most frequently that of emotional or multiple disabilities. He said, "There may be a distinction without a meaning."

CHAIR DYSON said he didn't want to get obsessive, but inquired if the statutes or regulations should be changed so that these kids could be targeted.

MR. ROBINSON replied that there are no regulations pertaining to the agency at all. The statute identifies the mandate for the agency to provide the low-incidence disability outreach program and it specifies areas of disability that would be included in that program, "FAE being absent." The larger question might be, "Is FAE in Alaska a low incidence disability?" That would fundamentally change the original and continuing legislative intent for these funds which up to now has been to support school district special education services specific to disabilities that are severe and occur infrequently.

CHAIR DYSON asked, "So if we have too many kids with prenatal alcohol poisoning, they wouldn't meet the need of low-incidence?"

MR. ROBINSON confirmed that they would not meet the criterion for low incidence, and thereby under the current design, would not meet the criterion for student-specific service. He told members that this was an important distinction within the service menu because the great majority of services that come out of the agency are not student-specific, but are broader services than that. Mr. Robinson said it had been discussed internally that should special revenue funding of some sort develop, specific to FAS/FAE education interventions, SESA would be very interested, not on a child-specific basis, but on a statewide or perhaps regional training basis to help train educators on classroom interventions. He said it was clearly understood that these children have educational and psychological differences and that status quo approaches in special education don't necessarily work.

MS. TUPOU informed members that SESA offers workshops, courses, newsletters, and numerous services - including the website - that are available to school districts, whether rural or urban, and regardless of incidence of disabilities in the school districts. She estimated that there were about 6,000 hits per month on the website, and the newsletter distribution was about 25,000.

SENATOR GREEN commented that this speaks to SESA's purpose of providing intervention training and taking the message to the home or school. She said FAS/FAE was not in the federal mandate, and that although SESA doesn't specifically serve that [population], she assumes that a child would rarely be only FAS/FAE; he/she would likely have other descriptors, some of which would fall under the category of services that SESA provides.

SENATOR WILKEN said he understands that sunset reviews usually trigger legislative [audits].

TAPE 04-5, SIDE B

CHAIR DYSON said, "... And my understanding is that the last audit will be out in about a month, and our legislative audit has done it several times." He reported that Legislative [Budget and] Audit (LBA) recommends extending the sunset date and he had considered delaying action on SB 289 for the month until the next audit would be out, but having LBA's assurance that there would be no objection - unless the committee feels differently - he said he would not hold the bill on that basis.

SENATOR WILKEN asked, "So the audit just needs to catch up with the bill."

CHAIR DYSON said yes.

MR. ROBINSON said, for the record, he wanted to correct previous data heard in committee. The agency's newsletter publication has a mailing list of about 2,000 and regarding the website, FY 03 data reveals a repeat user number of over 6,000. There were more than 196,000 hits on the site for FY 03.

2:28 p.m.

MS. JANET JOHNSON, representing herself, testified via teleconference from Cordova, saying that she has a 4.5 year old daughter named Rose whose picture is with the committee from the last time Ms. Johnson testified, in October. She said Rose has a low-incidence disability, degenerative eye disease, and that because of her condition "she walks funny, she falls down a lot and things." She also has problems with sensory integration, which means she gets overly stimulated by the average school day. SESA has successfully been working with her while she went through ILP. Rose transitioned, with SESA's help, into the school system - and the school system in Cordova has not traditionally been very compliant regarding children's special needs - although it is getting better now, with parent volunteers. SESA is the only authoritative voice regarding why changes need to be made - not necessarily big changes involving financial re-structuring - but changes such as how to set up the classroom to meet the needs of someone like her daughter. Right now there is a lot of cooperation in the school system because of work that SESA has done. Ms. Johnson said that even when SESA can't come to town, the agency notifies her if there is something available that she should know about. This is especially important because Rose's condition is degenerative. She said SESA is her only back-up, and if it was not re-authorized, it would leave many communities without anybody to reach out to, and it would be tragic.

CHAIR DYSON said he appreciated both her situation and her taking the time to testify today.

MS. JOHNSON then added that SESA trainings were available not only for teachers but were also open to community members. She said she could not have done this on her own because, "just me

talking about her condition isn't the same as getting training from an authoritative agency."

CHAIR DYSON asked if there was any further public testimony or questions. Hearing none, he said he would entertain a motion.

SENATOR GREEN moved to report SB 289 out of committee with individual recommendations, multiple letters of support, and the accompanying fiscal note.

CHAIR DYSON asked Senator Guess, who was online, if she had any questions or comments.

SENATOR GUESS said it sounded good to her.

CHAIR DYSON asked if there was any objection. Seeing and hearing, none, it was so ordered.

CHAIR DYSON announced that there was no additional business to come before the committee, and adjourned the meeting at 2:34 p.m.